

REMARKS/ARGUMENTS

In view of the amendments and remarks herein, favorable reconsideration and allowance of this application are respectfully requested. Claims 1, 4 and 7 have been amended. Thus, claims 1 and 4-7 are pending for further examination.

Rejection under 35 U.S.C. § 112, First Paragraph

Claims 1 and 4-6 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Office Action alleges that there is no disclosure for “finding an available memory of a specified minimum size” and “corresponding to the available area found.” Curiously, the Office Action goes on to cite a portion of text that seems to directly support these recitations -- at least when they are read in their proper context. Based at least on the portion of the specification cited in the Office Action, Applicant respectfully submits that one of ordinary skill in the art would have realized that the inventors were in possession of the claimed invention at the time the application was filed. The PTO has the initial burden of presenting evidence or reasoning to explain why persons skilled in the art would not recognize in the original disclosure a description of the invention defined by the claims. *See In re Wertheim*, 541 F.2d 257, 263 (CCPA 1976). Importantly, it is also noted that the subject matter of the claim need not be described literally for the disclosure to satisfy the description requirement. *See* MPEP 2163.02. Instead, all that is required is that Applicant’s description clearly allow persons of ordinary skill in the art to recognize that the inventors invented what is claimed. *In re Gosteli*, 872 F.2d 1008, 1012, 10 USPQ2d 1614, 1618 (Fed. Cir. 1989). Applicant respectfully submits that this burden has been met.

In any event, the claims have been amended, solely for clarity, to bring them even more in line with the portions of the specification cited in the Office Action. As such, the claims now

even more clearly comply with the written description requirement of Section 112, first paragraph. Thus, Applicant respectfully requests that this rejection be withdrawn.

Rejection under 35 U.S.C. § 102

Claims 1 and 4-7 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Nathan et al. (WO 96/12257). It is noted that Nathan also is the first named inventor of the instant application. In any event, this Section 102 rejection is traversed for at least the following reasons.

Applicant respectfully submits that Nathan's "tampon" or buffer does not correspond to the permanent storage means of claim 1. One of ordinary skill in the art certainly would recognize the clear difference between a mere buffer and a permanent storage means. Furthermore, according to Merriam Webster's Dictionary, a buffer merely is a temporary storage unit. It goes without saying that a temporary storage unit is not a permanent storage means by even the most strained construction of the terms. It is clear that Nathan discloses a temporary storage unit, whereas the invention of claim 1 requires permanent storage means. Nathan fails to anticipate the invention of claim 1 for at least this reason.

Furthermore, the technical solution of using a permanent storage means directly as called for in claim -- as opposed to using a temporary buffer -- has distinct advantages. These advantages include avoiding such steps as:

- (1) storing in memory the received file(s) in a file located in a temporary storage area,
- (2) checking if the received file(s) correspond to the file(s) expected, and
- (3) copying the received file(s) to a specified storage area.

The advantages alluded to above are explicitly captured in claim 1's requirement for "receiving each packet of said file sent by the central server and directly writing each said packet

sent by the central server to said reception file, each file having information representative of a type of data associated with the file.” This technical feature clearly shows that the above-listed steps are avoided by the present invention. Indeed, each packet of a file is sent by the central server directly to the reception file without the use of a buffer. Nathan clearly shows that a buffer is used: “En entrée la tâche vidéo (76) a pour objet de transférer les données reçues dans le tampon de télécommunication (46) vers la mémoire de masse (21).” Thus, neither this specifically claimed feature of claim 1, nor the advantages that naturally flow from it, are present in Nathan. Accordingly, Nathan fails to teach or suggest each and every feature of claim 1.

For at least the foregoing reasons, Applicant respectfully submits that Nathan fails to anticipate the invention of claim 1 or its dependents. Thus, reconsideration and withdrawal of this rejection are respectfully requested.

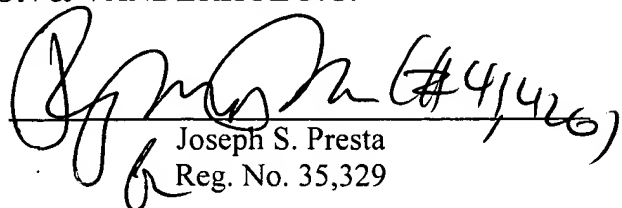
Conclusion

In view of the foregoing amendments and remarks, withdrawal of the rejections and allowance of this application are earnestly solicited. Should the Examiner have any questions regarding this application, or deem that any formalities need to be addressed prior to allowance, the Examiner is invited to call the undersigned attorney at the phone number below.

Respectfully submitted,

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